

Thomas M. Rogers III  
Attorney at Law  
303 628.9506  
trogers@rothgerber.com



One Tabor Center, Suite 3000  
1200 Seventeenth Street  
Denver, Colorado 80202-5855  
Telephone 303.623.9000  
Fax 303.623.9222  
www.rothgerber.com

Denver • Colorado Springs • Casper

August 24, 2006

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

MUR# 5803

Office of the General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

1 2006 AUG 28 P 2:38  
FEDERAL ELECTION COMMISSION  
OFFICE OF THE GENERAL COUNSEL

Re: Complaint Against Coloradans for Rick O'Donnell (Committee ID: H2EO07055)  
MUR# 5803

Dear Sir or Madam:

Enclosed for filing please find the original and three (3) copies of the Complaint in the above-referenced matter. If you have any questions, please contact me.

Very truly yours,

ROTHGERBER JOHNSON & LYONS LLP

Thomas M. Rogers III

TMR/ces

**BEFORE THE FEDERAL ELECTION COMMISSION**

**In the matter of:**

**Coloradans for Rick O'Donnell**  
(Committee ID: H2CO07055)

MUR# 5803

2006 AUG 28 P 2:58

FEDERAL  
ELECTION  
COMMISSION  
OFFICE  
OF THE  
CLERK

**COMPLAINT**

The Complainant, Perlmutter for Congress (Committee ID: H6CO07023), through its undersigned counsel, submits this Complaint pursuant to 2 U.S.C. § 437g(a)(1) and 11 CFR § 111.4 against Coloradans for Rick O'Donnell (Committee #: H2CO07055), and states:

**Parties**

1. Rick O'Donnell is a candidate for Congress in the Seventh District of Colorado.
2. Coloradans for Rick O'Donnell (the "O'Donnell Campaign") is the principal campaign committee for Rick O'Donnell.

**Factual Background Giving Rise to Campaign Finance Violations**

3. Bushell Insurance Agency, Inc. ("Bushell Inc.") is a Colorado corporation with its principal place of business at 12519 W. 32nd Ave., Wheat Ridge, Colorado 80033. Bushell Inc. is affiliated with State Farm Insurance and is in the business of insuring people and businesses in Colorado. Upon information and belief, Arthur Bushell is the principal agent for Bushell Inc.

4. On August 22, 2006, Arthur Bushell and his wife Vicki ("the Bushells") and Bushell, Inc. held a campaign event for Rick O'Donnell. The event took place in the Bushells' home, located at Lakewood, Colorado 80215.

5. Prior to this event, invitations were sent to some, if not all, of Bushell Inc.'s policyholders. (See Postcard Invitation, attached as **Exhibit 1**.) Upon information and belief, the Bushells used all or part of Bushell Inc.'s corporate-owned database of customer names and addresses to compile the mailing list of invitees for this event.

6. The invitations were sent on pre-printed postcards featuring the State Farm Insurance logo and the State Farm Insurance corporate slogan "Your Good Neighbor." The postcard designates Bushell Inc. as the return addressee, listing Bushell Inc.'s business mailing

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address and Bushell Inc.'s business telephone number. On the reverse side, the postcard features a picture of Arthur Bushell presumably sitting in Bushell Inc.'s offices.

7. The salutation on the postcard is directed "Dear Policyholder." The postcard also requests that invitees RSVP by calling the Bushell Inc. business telephone number.

8. Upon information and belief, the postcards were the property of Bushell, Inc. and paid for by non-segregated Bushell Inc. funds. Upon further information and belief, neither the Bushells nor the O'Donnell Campaign paid for these postcards in advance of using them.

9. Upon information and belief, the same or similar pre-printed postcards are regularly used by Bushell Inc. to communicate with policyholders regarding business and insurance matters—the only difference being that the block of text on the invitation postcard describes the campaign event rather than business and insurance matters. From the perspective of a reasonable policyholder, this postcard appears to be a Bushell Inc. communication.

10. The block of text on the postcard invites policyholders to come meet Rick O'Donnell, describing that the "[t]he whole purpose" of the event was "to help inform of the issues [sic] and not to persuade you." At least one person attending the event, Ms. Alma Mandarich, has explained that this was not an informational session, but was a partisan O'Donnell Campaign event designed to advocate and solicit votes and contributions for Rick O'Donnell. (See *Denver Post* Article, August 24, 2006, attached as **Exhibit 2**.) Rick O'Donnell specifically discussed his candidacy and asked the attendees for their votes on Election Day.

11. This event was also used as an O'Donnell Campaign fundraiser. According to Ms. Mandarich, the Bushells endorsed Rick O'Donnell's candidacy and solicited contributions from the attendees on behalf of the O'Donnell Campaign. The Bushells also distributed the O'Donnell Campaign's business reply envelopes for this purpose. According to Ms. Mandarich, campaign contributions were made at this event.

12. Just one day after the event, K.C. Jones, Rick O'Donnell's campaign spokesperson, claimed there was no FEC campaign finance violation. (See *id.*) She also stressed the fact that the Bushells plan to reimburse Bushell Inc. for the use of the postcards. (See *Rocky Mountain News* Article, August 24, 2006, attached as **Exhibit 3**).

**Federal Election Commission ("FEC") Campaign Finance Law Violation:  
Corporate Contribution and Corporate Facilitation of Campaign Fundraising**

13. Federal law expressly prohibits federal candidate committees from accepting corporate contributions. The invitation to the Bushell Inc. event for O'Donnell used the Bushell Inc. corporate name and affiliation with State Farm Insurance to lure invitees to the Bushell home for an informational session. The event, however, was a partisan event advocating for Rick O'Donnell and soliciting O'Donnell Campaign contributions. The information on the face of the invitation, Ex. 1, alone is sufficient to lead to the conclusion that the O'Donnell Campaign has accepted an illegal in-kind corporate contribution.

14. Bushell, Inc. provided its customer mailing list, postcards, and corporate name and affiliated logos to facilitate fundraising. The use of these Bushell, Inc. corporate resources to facilitate fundraising for the O'Donnell Campaign violated FEC regulations, including but not limited to, 11 CFR 114.2(f) (2006). This regulation specifically prohibits the use of corporate assets to facilitate campaign financing unless the fair market value for the use of the assets is paid in advance. According to Ms. Jones' statements on behalf of the O'Donnell Campaign, there was no advance payment made to Bushell Inc. by the O'Donnell Campaign or the Bushells for the use of these corporate assets.

**Request for Relief**

Based upon the foregoing, the Complainant respectfully requests that the FEC investigate this violation and determine as a matter of law that the O'Donnell Campaign has violated the federal campaign finance statutes and regulations.

Further, the Complainant respectfully requests that the FEC conduct a thorough review of the reports filed by the O'Donnell Campaign to discover further violations of regulations of the FEC.

Further, the Complainant respectfully requests that the FEC assess all appropriate penalties for these violations in accordance with 2 U.S.C. § 437g(a)(5), or any other enforcement provision, and grant any additional relief the FEC deems just and proper.

Respectfully submitted this 24<sup>th</sup> day of August, 2006.

ROTHGERBER JOHNSON & LYONS LLP



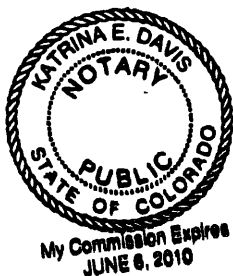
Thomas M. Rogers III

STATE OF COLORADO )  
COUNTY OF Denver ) ss.

Subscribed and sworn to before me by Thomas M. Rogers III on the 24<sup>th</sup> day of August, 2006.

WITNESS MY HAND AND OFFICIAL SEAL.

My Commission expires:



Notary Public



BUSHELL INSURANCE AGENCY, INC.  
12519 W. 32nd Ave.  
Wheat Ridge, CO 80033  
Business (303) 732-2206 PM 9 T



Dear Policyholder

My wife Vicki and I would like to invite you to an event at our home and a chance to meet Rick O'Donnell who is running for Congress in our district. The whole purpose of this is to help inform of the issues and not to persuade you. You can ask him tough questions on things like immigration or health care. It will be on Aug. 22, 2006 from 6:30-9:00pm at Lakewood CO 80215 Please RSVP by Aug. 18<sup>th</sup>

POLICYHOLDER'S NAME AND  
ADDRESS REDACTED

Why Buy From State Farm  
Your Good Neighbor Agent since 1968

Exhibit 1

# Dueling barbs in 7th District

## Perlmutter questions event for insurance firm's policyholders

**O'Donnell fires back, asking the ex-legislator to reveal if he worked with energy-industry clients.**

By Christopher N. Osher  
*Denver Post Staff Writer*

For the second time in four months, Republican congressional candidate Rick O'Donnell is under fire for what opponents allege are illegal fundraisers.

Democrat Ed Perlmutter on Wednesday accused O'Donnell's campaign of violating federal elections laws by having a Wheat Ridge insurance firm lobby policyholders on his behalf.

The charge came the same day O'Donnell stood outside Perlmutter's law firm, questioning his ties to the energy industry.

The dueling charges marked the first major clash between the two since Perlmutter won the Democratic nomination for the 7th Congressional District on Aug. 8, offering a preview of

how intense the race is expected to be.

O'Donnell challenged Perlmutter to release the list of clients he worked for while serving eight years in the legislature.

Perlmutter's campaign rebuffed the request, saying instead that it will file a complaint with the Federal Election Commission over an event where the Bushell Insurance Agency Inc., an affiliate of State Farm Insurance, invited policyholders to meet O'Donnell.

Federal election laws prohibit corporations from using company resources to encourage customers to vote for a candidate.

The invitations to Arthur Bushell's home Tuesday night were addressed "Dear Policyholder" and carried the logos of his firm and State Farm. "The whole purpose of this is to help inform of the issues and not persuade you," the invitation said. K.C. Jones, O'Donnell's campaign manager, denied any laws were broken. She said no cam-

paign money was raised at the event and stressed that Bushell planned to reimburse his firm for the use of the postcards.

Joy Pickar, spokeswoman for State Farm, said the use of State Farm's logo was "ill-advised" but an "innocent error."

A policyholder who attended the event, Alma Mandarich, described it as partisan and said she canceled her policy. Mandarich, a Democrat who was provided to the media by the Perlmutter camp, said Bushell told those attending how to make campaign contributions.

"O'Donnell was very partisan at this event and asked for campaign contributions and collected money, and it's a complete violation of the law," said Scott Chase, spokesman for Perlmutter's campaign.

"This is the second time Democrats have alleged legal violations involving O'Donnell events. In April, Democrats called for U.S. Special Counsel Scott Bloch to investigate whether the head of the Environmental Protection Agency

improperly solicited political contributions for O'Donnell.

Separately, O'Donnell on Wednesday accused Perlmutter of "kowtowing" to oil and gas interests as a legislator. He pointed to Senate Bill 141, which Perlmutter sponsored in 2002, and House Bill 1065, which Perlmutter supported in 2000.

The Senate bill would have allowed companies that retrieve gas and oil from land owned by others to charge them production costs. The House bill increased the amount of oil that can be produced and still qualify for tax exemptions. In 2003, after leaving the legislature, Perlmutter created Elk Petroleum.

"We don't know if he was also working with clients who said, 'Hey, thank you for carrying our bill — why don't you come into business with us,'" O'Donnell said.

Staff writer Christopher N. Osher can be reached at 303-830-1747 or cosher@denverpost.com.

# Rocky Mountain News

Exhibit 3

To print this page, select **File** then **Print** from your browser

URL: [http://www.rockymountainnews.com/drmn/elections/article/0,2808,DRMN\\_24736\\_4940404,00.html](http://www.rockymountainnews.com/drmn/elections/article/0,2808,DRMN_24736_4940404,00.html)

## Gloves come off in the 7th

Candidates exchange body blows, charges in heated campaign

**By Chris Barge, Rocky Mountain News**  
**August 24, 2006**

Republican 7th Congressional District candidate Rick O'Donnell called on his Democratic opponent Wednesday to disclose the names of every client he represented as an attorney while serving in the state Senate.

Democrat Ed Perlmutter shot back that O'Donnell could use a good lawyer himself.

Perlmutter said he plans to file a complaint with the Federal Election Commission this week claiming that O'Donnell violated campaign finance laws at an event Tuesday evening.

The two are locking horns in a fierce contest for the suburban Denver district seat, which Republican Bob Beauprez is giving up to run for governor.

The day of political crossfire began in downtown Denver with O'Donnell holding a press conference in front of Perlmutter's 17th Street law office.

The Republican said at the press conference that if Perlmutter would not give up his client list, he must be hiding conflicts of interest.

Perlmutter practices bankruptcy law at Berenbaum, Weinshienk & Eason, where he has worked since 1980. He served in the state Senate from 1994 through 2002.

O'Donnell pointed to what he called "a disturbing series of votes and actions" by Perlmutter that benefited "Big Oil" and which he implied constitute conflicts voters don't yet know about.

Perlmutter declined to disclose his clients' names, citing attorney-client privilege.

He also said that anyone interested in who his clients are could find out by researching court documents.

O'Donnell's campaign said if legal clients are a matter of court record, there should be no reason for Perlmutter to withhold their names.

"This is a desperate ploy by a guy who's trying to hide from his own ethical problems," Perlmutter spokesman Scott Chase said. "Rick O'Donnell doesn't realize that this is a citizen legislature where people have real jobs."

Immediately after O'Donnell's press conference, Perlmutter's campaign issued a press release accusing O'Donnell of violating federal finance laws at a campaign event held the night before.

It said that a State Farm Insurance affiliate illegally used the corporation's logo and resources to encourage policyholders to contribute to the Republican's campaign.

KC Jones, O'Donnell's campaign spokeswoman, called the allegation "absolutely mentless" and issued a press release calling the "baseless accusation" a "classic smoke screen to avoid answering a tough question."

The gathering was hosted at the private home of Art Bushell, owner of Wheat Ridge State Farm affiliate Bushell Insurance



Dennis Schroeder ©  
News

Rick O'Donnell, center, Republican candidate for suburban Denver's 7th Congressional District seat, gestures during a Wednesday morning news conference in front of Democratic opponent Ed Perlmutter's downtown Denver law office. O'Donnell is flanked by supporters Daniel Furman, from left, Janice Sinden and Tiffany Fitzpatrick.

Exhibit 3

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Agency Inc.

Bushell mailed invitations with State Farm logos to policyholders, asking them to come "meet Rick O'Donnell who is running for Congress in our district."

Jones conceded the invitations should not have included the logo because "the logo would make you assume (corporate) funds were used to pay for this event and they were not."

Federal laws prohibit corporate contributions in connection with federal elections, in-kind or otherwise, FEC spokesman Ian Stirton said.

Jones said she was sent a copy of the wording in the invitation, which she approved, but never saw the final mailer that included the State Farm logo.

Bushell did not return a call seeking comment.

Bushell paid all costs associated with the invitations and the event, and the campaign will disclose that to the FEC as an in-kind contribution, Jones said.

*bargec@RockyMountainNews.com or 303-954-5059*

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